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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,985	10/22/2003	Pierre Ginies	116491	8988
25944	7590	06/13/2005	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			TRIEU, THERESA	
			ART UNIT	PAPER NUMBER
			3748	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/689,985

Applicant(s)

GINIES, PIERRE

Examiner

Theresa Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4, 8 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) 5-7, 9 and 13-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office Action is responsive to the applicants' election filed on May 5, 2005.

#### ***Election/Restrictions***

1. Applicant's election with traverse of the species of Figures 1-4 is acknowledged. The traversal is on the ground(s) that the search and examination of the entire application could be made without serious burden. This is not found persuasive because the applicant claims recite several limitations which are mutually exclusive to the different species noted by the examiner in the Restriction Requirement mailed on April 14, 2005. Additionally, for each additional features non-elected species, required examiner to separate thought process; therefore, it's a "burden" to examiner.

Accordingly, the requirement is still deemed proper and is therefore made FINAL.

The examiner has examined claims 1-4, 8, 10-12 which read on the elected species of Figures 1-4. Claims 5-7, 9 and 13-16 are withdrawn from consideration as being directed to a non-elected species.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

***Claims 1, 4 and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Suss (Patent Number 6,666,669).***

Regarding claims 1, 4 and 10 and 12, as shown in Figs. 1-3, Suss discloses a device for guiding a movable scroll of a scroll compressor, comprising: a track (14, 21, 29) that guides the movable scroll (4) and supports radial inertial forces between a fixed scroll (2) and the movable scroll; the track being disposed on a body of the compressor (see Fig. 1); the track (14) is circular; a radius of the guide track being equal to a radius of the movable scroll (4) plus a radius of an orbital movement; the track providing orbital guidance of the movable scroll (4).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

***3. Claims 2, 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suss '669 in view of design choice.***

Suss discloses the invention as recited above; however, Suss fails to disclose a shape of the track.

It is examiner's position that one having ordinary skill in the rotary compressor art, would have found it obvious to utilize the shape of the track, since they are merely design parameters, depending on temperature, pressure, or stress acted/applied on the movable/fixed

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scroll or depending on being used for a particular purpose or solving a stated problem. Moreover, there is nothing in the record which establishes that the claimed shape of the track under such conditions, presents a novel of unexpected result (See *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975)).

### *Prior Art*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of six patents: Blass et al. (U.S. Patent Number 5,538,408), Kawahara et al. (U.S. Patent Number 5,562,436), Kawada et al. (U.S. Patent Number 6,123,527), Yoshimura et al. (Publication Number JP 05-195965), Ochiai (Publication Number JP 55-051982), and Yoshioka et al. (Publication Number JP 02-161189), each further discloses a state of the art.

### *Communication*


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TT



Theresa Trieu  
Primary Examiner  
Art Unit 3748